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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,789	09/18/2003	Ronald W. Fechter	03-143	6736
719	7590	11/29/2006	EXAMINER	
CATERPILLAR INC. 100 N.E. ADAMS STREET PATENT DEPT. PEORIA, IL 616296490			MACARTHUR, VICTOR L	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/665,789

Applicant(s)

FECHTER ET AL.

Examiner

Victor MacArthur

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-28 is/are pending in the application.
- 4a) Of the above claim(s) 27 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21 and 24-26 is/are rejected.
- 7) ☒ Claim(s) 22 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/18/2003, 9/12/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group III "the work machine" and species 1 (figure 1) in the reply filed on 2/27/2006 is acknowledged.

Claims 27 and 28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention/species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/27/2006.

Contrary to the applicant's assertion, claim 28 does not read on the elected work machine but rather reads on the non-elected method of using a work machine.

Claim Objections

Claims 21 and 22 are objected to because of the following informalities:

- The phrase "a work machine comprising: a load bearing assembly extending from the work machine" (lines 1-2 of claim 21) should be replaced with --a work machine comprising: a load bearing assembly--. How can the load bearing assembly be comprised within (be part of) the work machine and extend away from the work machine as a separate element at the same time?
- The phrase "a set of threaded holes" (lines 2-3 of claim 22) should be replaced with --a set of the threaded holes-- to improve claim clarity.

Appropriate correction is required. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21 and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Cunningham (US 2002/0101107).

Claim 21. Cunningham discloses (figs.1-16) a work machine comprising: a load bearing assembly extending from the work machine for mounting implements, the load bearing assembly including an elongated stick member (1); an implement (7, 2) pivotally attached to the stick member for pivotal movement relative to the stick member; an implement positioning assembly (20, 4) coupled to the implement, the implement positioning assembly holding the implement in a desired pivotal position relative to the stick member, the implement positioning assembly coupled to the stick member via an attachment device (9, 14); the attachment device further comprising; at least one plate member (9, 14) mounted to the stick member, the at least one plate member defining a plurality of mounting positions (at holes 27); and, a base member (17) adapted to attach to the plate member at one of the plurality of mounting positions, and the implement positioning assembly is pivotally attached to the plate member (in as much as applicant's assembly 121 is attached to applicant's plate 151) for pivotal movement relative to the plate member.

Claim 24. Cunningham discloses a work machine according to claim 21 wherein the implement positioning assembly comprises: a linkage assembly (20, 4) mounted to the

Art Unit: 3679

implement; and an implement positioning device (18, 3) mounted between the linkage assembly and the base member.

Claim 25. Cunningham discloses a work machine according to claim 24 wherein the implement positioning device is a hydraulic cylinder.

Claim 26. Cunningham discloses a work machine according to claim 24 wherein the implement positioning device is a strut.

Allowable Subject Matter

Claims 22 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and overcoming all other minor claim objections noted above.

Claim 22. Cunningham (US 2002/0101107) discloses a work machine according to claim 21 wherein: the at least one plate member includes a plurality of holes (27), wherein a set of the holes defines each mounting position; and the base member includes mating holes through which bolts (25) pass to enter into the holes of the plate member to mount the base member to the plate member. Cunningham does not disclose that the holes are threaded. MacKarvich (US 6,212,830) shows that holes can be threaded to receive threaded bolts (screws 40 described in col.3, ll.40-43). However, the prior art does not disclose or suggest any motivation to modify Cunningham in view of MacKarvich nor is there any readily apparent benefit in doing so.

Claim 23 depends from claim 22 and is therefor similarly objected to.

Art Unit: 3679

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Referring to work machines:

Lazure U.S. Patent 4,142,817

Van Horlick U.S. Patent 5,222,563

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor MacArthur whose telephone number is (571) 272-7085.

The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

VLM

VLM

November 22, 2006

Daniel P. Stodola

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